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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,913	12/20/2001	Gojendra Nath Bordoloi	3108/OK142	9950
75	90 07/10/2003			
DARBY & DARBY P.C. 805 Third Avenue New York, NY 10022			EXAMINER	
			MARX, IRENE	
			ART UNIT	PAPER NUMBER
			1651	
		DATE MAILED: 07/10/2003		

Please find below and/or attached an Office communication concerning this application or proceeding.

Application No. Applicant(s) App	> /}	()						
Office Action Summary Examin Fine Marx 1651			Application No.	Applicant(s)				
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The MALIURG DATE of this communication appears on the cov_r sheet with the correspondence address Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _I MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Letterloss of the many be available under the provisions of JC SET 1.13(a). In covert, lowerer, may a righty be limited, with the control of the period for roph special above it less than there, (30) easy, a roph which he seatoney minimum of initing (20) days will be considered limited, 1 this period for roph special date on the instruction of the reply of the period for roph special date on the instruction of the reply of the period for roph special date on the state of the special for roph special date of the special roph which he seatoney minimum of initing (20) days will be considered from the special roph will be period for roph special date of the special roph will be period for roph special roph will be reply which he seaton control of the special roph will be reply which he seaton of the special roph will be reply which he seaton roph will be reply which he seaton of the special roph will be reply which he seaton of the special roph will be reply which he seaton of the special roph will be reply which he seaton of the special roph will be reply which he seaton of the special roph will be reply which he seaton of the special roph will be reply will be reply will be seaton of the special roph will be reply will be reply and will be reply the special roph will be reply to the many special roph will reply to the many special roph will be reply to the special roph will be reply	Office Action Summary		Examin r	Art Unit				
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1) Responsive to communication(s) filed on 2a) This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1-13 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) is/are allowed. 6) Claim(s) is/are rejected. 7) Claim(s) is/are objected to. 8) Claim(s) 1-13 are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). 11) The proposed drawing correction filed on is: a) approved b) disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action. 12) The oath or declaration is objected to by the Examiner. Priority under 35 U.S.C. §§ 119 and 120 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). *See the attached detailed Office action for a list of the certified copies not received. 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121. Attachment(s) 10 Notice of References Cited (PTO-882) 4) Interview Summary (PTO-413) Paper No(s) 5) Notice of Informal Patent Application (PTO-152)	 THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any 							
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Application/Control Number: 10/027,913

Art Unit: 1651

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-2 drawn to a chemical compound, classified in Class 546, subclass 314, for example.

- II. Claims 3-11 drawn to a process of making a compound by fermentation with a strain *Streptomyces*, classified in Class 435, subclass 117, for example.
- III. Claim 12 drawn to a method of treating tuberculosis, classified in Class 514, subclass 354, for example.

Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the product as claimed can be made by another and material different process, such as by classical organic chemistry, such as esterification of the heterocyclic carboxylic acid with the corresponding linear alcohol.

Inventions II and III are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP 806.05(h)). In the instant case the product as claimed can be used in a materially different process of using that product such as for the treatment of bacterial infections by enteropathogens or fungal infections by *Fusarium* and/or *Rhizoctonia*.

Each of groups II and III is directed to separate and distinct inventions. The method of Group II is directed to a fermentation process while Group III is directed to a method of treating tuberculosis. These methods are distinct both physically and functionally, require different process steps and produce different effects and/or products.

The several inventions above are independent and distinct, each from the other. They have acquired a separate status in the art as a separate subject for inventive effect and require independent searches (as indicated by the different classification). The search for each of the above inventions is not co-extensive particularly with regard to the literature search. Further, a reference which would anticipate the invention of Group I would not necessarily anticipate or make obvious the any of the other groups.

For these reasons restriction for examination purposes is proper.

Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

Application/Control Number: 10/027,913

Art Unit: 1651

Page 3

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Irene Marx whose telephone number is (703) 308-2922. The examiner can normally be reached on Monday through Friday from 6:30 AM to 3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Wityshyn, can be reached on (703) 308-4743. The appropriate fax phone number for the organization where this application or proceeding is assigned is before final (703) 872-9306 and after final, (703) 872-9307.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Customer Service whose telephone number is (703) 308-0198 or the receptionist whose telephone number is (703) 308-1235.

Irene Marx

Primary Examiner
Art Unit 1651